MINUTES OF THE
HEALTH REFORM TASK FORCE
Thursday, December 3, 2015 – 1:00 p.m. – Room 30 House Building

Members Present:
Sen. Allen M. Christensen, Senate Chair
Rep. James A. Dunnigan, House Chair
Rep. Rebecca Chavez-Houck
Rep. Francis D. Gibson
Rep. Marie H. Poulson
Rep. Dean Sanpei
Sen. Peter C. Knudson
Rep. Michael S. Kennedy
Rep. Edward H. Redd

Staff Present:
Mr. Mark Andrews, Policy Analyst
Ms. Cathy Dupont, Associate General Counsel
Ms. Lori Rammell, Legislative Assistant

Members Absent:
Sen. J. Stuart Adams
Sen. Gene Davis

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Task Force Business

Chair Christensen called the meeting to order at 1:15 p.m. Rep. Kennedy was excused from the meeting.

MOTION: Rep. Poulson moved to approve the minutes of the October 22, 2015, meeting. The motion passed unanimously with Rep. Gibson absent for the vote.

Chair Christensen announced that agenda item number three, Medicaid Expansion—Montana, and agenda item number five, Medicaid Dental Coverage, would be switched for purposes of today's meeting.

2. Federal Risk Corridor Payments – Implications for Utah Carriers

Ms. Dupont distributed "The 3Rs: This is *all* arithmetic!" and discussed the three programs—reinsurance, risk corridors, and risk adjustment—established under the Affordable Care Act (ACA). She reviewed the purposes, operation, and effective dates of each program. She pointed out that the ACA's Risk Corridor Payments program did not raise enough money to be self-sustaining, and only 12.6% of the health insurance carriers' claims were paid by the federal government. Ms. Dupont responded to questions from the committee by saying that the Centers for Medicare and Medicaid Services (CMS) intends to pay some of these claims if possible, but the likelihood of that is unknown. She discussed the potential for rates to even out over time, after the previously uninsured population has had insurance for some time through the exchanges.

Mr. Shaun Greene, Chief Executive Officer, Arches Health Plan, read a statement to the task force, which explained Arches Health Plan's original understanding of the federal government's intention to pay out on the Risk Corridor Payments program. He explained that an effort to work with CMS's Center for Consumer Information and Oversight (CCIO) to expand Arches' capital base was unsuccessful, and that the Utah Insurance Department decided to place Arches Health Plan in receivership and terminate its plans. Mr. Greene refuted some misconceptions about how Arches had done business. He suggested steps the Legislature could take to help stabilize the insurance market in the state over the next few years. Mr. Greene responded to questions from the task force regarding the number of insureds Arches had and the balance of Arches' loans.

Commissioner Kiser, Utah Insurance Department, reported that the department has an ongoing administrative action in the case of Arches and he may not be able to answer some questions about Arches' receivership. He reported that he learned in a conference call with CCIO that only 12.6% of Risk Corridor Payments would be funded, and he anticipated the difficult position that would put the insurance department's financial examiners in. He said the department has a commitment from CCIO that an additional $10.5 million will be paid by the federal government to cover Arches plans. He said he anticipates a "soft landing" for Arches' insureds.

Ms. Tanji Northrup, Assistant Commissioner, Utah Insurance Department, said the department has been advised that the 2015-2016 risk corridor payments will be used to make whole the 2014 Risk Corridor Payments program. She pointed out that the consequence is that 2015-2016 payments will likely not be made. She said the department anticipates being able to make all Arches claims whole by the end of the year. In response to questions from the task force, Ms. Northrup stated that the department does not believe any other carriers are in jeopardy, due to the fact that other carriers have larger parent companies and are on better financial footing. She reported that frustration with short timelines and a lack of answers from the federal government about risk corridors has been experienced nationwide. She said CCIO continues to assert that it will make good on the Risk Corridor Payments program.

Ms. Northrup reported on a provision regarding coverage under the ACA for autism treatment. She said the department is planning on submitting comments on this issue. She responded to questions from the task force regarding this issue. Ms. Dupont said that the Legislature will have to make a decision about how strongly it will defend its position on this issue, but the insurance department will be caught in the middle.

3. Medicaid Dental Coverage

Rep. Steve Eliason distributed draft legislation "Medicaid Coverage for Adult Dental Services" (2016FL-0367/001) and explained that this bill does not expand the Medicaid population, rather it is a partial restoration of benefits to blind and disabled persons. He clarified that the proposal does not include the aged. He reviewed the waiver requirement, the responsibility of the University of Utah School of Dentistry to provide the proposed services, and the provision that services would cease if the federal share of the cost of providing services falls below 65%.

Dr. Glen Hanson, Dean, University of Utah School of Dentistry, explained that this draft legislation is a continuation of a program established by the Legislature two years ago to provide oral healthcare to the community. He explained the importance of proper oral healthcare and the consequences of improper care, including malnutrition and some cancers. He said that through the draft legislation, the dental school would use its resources to cover about 40% of the qualifying Medicaid patients in Salt Lake County. He pointed out that this program would provide dental school students with opportunities for training and help them feel a need to serve this population throughout their careers.

MOTION: Rep. Dunnigan moved that line 49 of the draft legislation be amended by deleting the words "outside Salt Lake County" and inserting the words "not provided by the University of Utah School of Dentistry." He also requested a capping mechanism be added on line 51 with the addition of the words "subject to appropriations by the Legislature, and." The motion passed unanimously.

Mr. Michael Hales, Director, Utah Department of Health, explained that those over the age of 65 with a disability would be eligible for this benefit, while those over the age of 65 without a disability would not be covered. He explained that CMS is required to approve a minimum level of benefits.

Dr. Val Joseph Cheever, Assistant Dean, Roseman College of Dental Medicine, reported on the services the

college provides. He pointed out that the University of Utah School of Dentistry appears to be creating a patient pool with this bill. He suggested that perhaps the patient pool could be shared between Roseman and the University of Utah, but stopped short of committing the school to pay the state's 30% share of the program.

MOTION: Rep. Dunnigan moved that draft legislation "Medicaid Coverage for Adult Dental Services" be approved as a committee bill. The motion passed unanimously.

4. Substance Abuse Treatment Fraud

Rep. Dean Sanpei introduced the issue, raised in the October 22 meeting of the task force, of fraudulent or questionable billing practices by certain substance abuse treatment providers. He said efforts to draft legislation include defining outpatient programs and centers; authorizing insurers to look at the books of entities that are providing services for its members, even if those insurers don't have a contract with the entity; requiring the Division of Substance Abuse to develop a quality initiative; and closing the loop to make it illegal to do patient brokering with certain kickbacks.

Ms. Diane Moore, Office of Licensing, Utah Department of Human Services, explained that there is an inconsistent requirement for licensure among treatment facilities, creating an uneven playing field among providers and a lack of oversight. She said her office is currently authorized to look only at basic safety provisions.

Mr. Brent Kelsey, Assistant Director, Division of Substance Abuse and Mental Health, agreed that it is time to have a consistent policy regarding who is required to be licensed and who is not. He stressed that not all substance abuse treatment providers act like those mentioned in the task force's last meeting. He said public providers are heavily regulated and monitored. He stated that it is important to recognize that there is individual licensing, facility licensing, and quality standard and certification programs for public treatment providers. He said the division needs to do more to help those looking for treatment to recognize good treatment providers, provide that information to the public, and bring transparency to the industry. He gave examples of ways the industry could be rated and audited, and unscrupulous practices exposed.

Mr. Travis Wood, Chairman of the Board, Odyssey House, and industry lobbyist, presented "WHAT Can DSAMH Do to Improve Quality and Prevent Fraud?" He suggested that legislation be drafted to require auditability of documentation, including drug testing.

Mr. Eric Schmidt, President, Utah Association of Addiction Treatment Providers, said there is a concerning practice in the state of patient brokering from county jails. The problem, he said, involves lack of assessment and triage of these patients. He said the association is considering requiring members to voluntarily make provider scorecards public and only refer patients to other legitimate treatment providers.

Mr. Adam Cohen, Chief Executive Officer, Odyssey House, stated that Florida and other states have anti-kickback laws. He said that initially making compliance by providers voluntary will allow providers to make changes ahead of mandated laws, and hopefully create market-driven incentives.

Mr. Dennis Cecchini, a concerned parent, related his experience in losing his son to a heroin overdose earlier this year. He said one of the issues surrounding the ability to help an addicted person to get the help he or she needs is figuring out how to cover the exorbitant costs of treatment. He said practices such as getting people insured who might not be able to get insurance, then kicking them out when they are disqualified for some reason, is one factor that contributes to the number of overdoses in the state each year. He discussed the importance of requiring adults to remain in treatment beyond the initial 10 days. He

explained the current difficulties in finding a reputable treatment facility, and suggested that a consumer guide website could review in detail the ratings for some of the care facilities and programs in the state.

Mr. Mike Isom, registered nurse and substance abuse treatment provider, related his experiences with his brother who was in a treatment facility. He reported that none of the staff was licensed, the treatment was extremely expensive, and none of the levels of care claimed were actually being provided. He said that this is the reason he created a substance abuse treatment facility. He said that, while abuse exists, there are also amazing doctors and programs. He said he would not like to see levels of care mandated. He said care can be better managed if the companies are more accountable.

Mr. Armand Glick, Director of Fraud Division, Utah Insurance Department, said the division has jurisdiction to investigate criminal claims concerning treatment facilities. One of the issues he said the division is finding is that access is restricted to out-of-network facilities. He said there is a lack of regulatory authority to investigate allegations that don't rise to the criminal level. He said the division supports the idea of an insurer being allowed to look at records of an insured being treated in an out-of-network facility.

5. Medicaid Expansion — Montana

Mr. Andrews reviewed Montana's plan to expand Medicaid eligibility. He said Montana is going to charge premiums not just to those over 100% of the federal poverty level, but also to those from 50% to100% of the federal poverty level. He stated that if enrollees do not pay their premium, the liability is sent to the Department of Revenue for collection. He said that those over 100% of the federal poverty level who do not pay their premium may be disenrolled for up to three months, though that can be waived for good health behaviors. He said Montana uses a third-party administrator, in this case BlueCross BlueShield, which will be required to cover 90% of facilities and 80% of providers statewide.

6. Adjourn

MOTION: Rep. Gibson moved to adjourn the meeting. The motion passed unanimously.

Chair Christensen adjourned the meeting at 4:02 p.m.